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In re Application of
Faulks, et al.

Application No. 09/849,935

Filed: May 4, 2001

Atty. Dkt. No.: 00732

: LETTER REGARDING PTA

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This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 16, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 128 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 128 days.

Patentees indicate that a possible error appears in the calculation of PTA and suggests a PTA of 133 days is in error.

A review of the application history reveals that the Determination of Patent Term Adjustment of 133 days is in error. An adjustment of 279 days under 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office¹. The adjustment 279 days can be reduced a total of 151 days for applicants' failure to engage in reasonable efforts to conclude prosecution².

¹ In accordance with 37 CFR 1.703(a)(1), the delay began July 5, 2002, the day after the date that is 14 months after the date on which the application was filed, and ended April 9, 2003, the date the non-final Office action was mailed.

² The calculations of the reductions are as follows: **5 days** under 37 CFR 1.704(b) commencing December 11, 2001, the day after the date that is three months after the Notice was mailed on July 10, 2001, and ended October 15, 2001, the date of receipt of applicants' response to the Notice; **2 days** under 37 CFR 1.704(b) commencing July 10, 2003, the day after the date that is three months after the date the non-final Office action was mailed on April 9, 2003, and ended July 11, 2003, the date a response was submitted; **34 days**

As patentees are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation

under 37 CFR 1.704(b) commencing January 11, 2004, the day after the date that is three months after the second non-final Office action was mailed, and ended February 13, 2004, the day a response was submitted; **20 days** under 37 CFR 1.704(c)(8) commencing February 14, 2004, the day after the date the initial reply was filed, and ending March 4, 2004, the date that the supplemental reply, i.e., IDS, was filed; and **90 days** under 37 CFR 1.704(b) commencing August 20, 2004, the day after the date that is three months after the third non-final Office action was mailed, and ended November 17, 2004, the date a response was submitted.